



California Energy Commission

DOCKETED

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TN 72476

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January 13, 2014

To: Chairman Robert Weisenmiller
Commissioner Andrew McAllister
Commission David Hochschild
Commissioner Karen Douglas
Commissioner Janea Scott

From: Hearth, Patio and Barbecue Association

Docket: 13-AAER-1

RE: Appliance Efficiency Regulations (CEC-400-2014-015-45DAY)

Commissioners:

The Hearth, Patio & Barbecue Association, Pacific Affiliate (HPBAP) is a not-for-profit trade association that represents and promotes the interests of the hearth products industry regionally in California, Nevada and Hawaii. HPBA is also a not-for-profit trade association which represents manufacturers all across North America. The national association and regional affiliate represent several national and California entities that include manufacturers, retailers and service companies. HPBA suggests changes to the Proposed Amendments to the Appliance Efficiency Regulations (CEC-400-2013-015-45-Day) relevant to vented gas fireplace heaters, or what is labeled in this regulation as "Hearth Heaters" so that they are enforceable. The regulations for vented gas fireplace heaters in the proposed CEC Appliance Efficiency Regulations are based on a DOE 2011 Final Rule. The "vented hearth heaters" portion of this DOE rulemaking was vacated on February 8, 2013 by the United States Court of Appeals (District of Columbia Circuit; ruling attached). The court ruled that the term "hearth heater" is not valid. Without the proposed following changes the CEC Appliance Efficiency Regulations for gas vented fireplaces are unenforceable.

HPBA asks that the CEC consider the changes below. HPBA has struck proposed 45-Day language we believe needs to be changed and inserted proposed language that is underlined. 45-Day language is italicized for clarity.

1. Page VII: List of Tables, line E-2: *Standards for Gas Wall Furnaces, Floor Furnaces, ~~Hearth Heaters~~ Fireplace Heaters, and Room Heaters.*
2. Page 1, Section 1601. Scope (e): *Vented gas space heaters and vented oil space heaters, vented and unvented infrared gas heaters, vented ~~hearth~~ gas fireplace heaters, electric residential boilers, and gas-fired combination space-heating and water-heating appliances.*
3. Page 27: In definitions, replace "vented hearth heater", a term the court vacated, with the proper definition of a gas vented fireplace as found in ANSI Z21.88-2012: Vented Gas Fireplace Heaters.
~~"Vented hearth heater"~~ Vented Gas Fireplace Heater means a vented appliance which simulates a solid fuel



fireplace and is designed to furnish warm air, with or without duct connections, to the space in which it is installed. A vented gas fireplace heater is such that it may be controlled by an automatic thermostat. The circulation of heated room air may be by gravity or mechanical means. A vented hearth gas fireplace heater may be freestanding, recessed, zero clearance, or a gas fireplace insert or stove. ~~The following products are not subject to the energy conservation standards for vented hearth heaters:~~

- ~~(1) Vented gas log sets; and~~
- ~~(2) Vented gas hearth products that meet all of the following four criteria: —~~
 - ~~(A) Certified to ANSI Z21.50 but not to ANSI Z21.88;~~
 - ~~(B) Sold without a thermostat and with a warranty provision expressly voiding all manufacturer warranties in the event the product is used with a thermostat;~~
 - ~~(C) Expressly and conspicuously identified on its rating plate and in all manufacturer's advertising and product literature as a "Decorative Product: Not for use as a Heating Appliance"; and~~
 - ~~(D) With respect to products sold after January 1, 2015, not equipped with a standing pilot light or other continuously burning ignition source.~~

4. Page 27- "Vented home heating equipment" or "vented heater" means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted and except for vented hearth fireplace heaters, which may be with or without duct connections) and includes: vented wall furnace, vented floor furnace, vented hearth fireplace heater, and vented room heater.
5. Pg. 78, Table E-1:
Wall furnaces, floor furnaces, ~~hearth heaters~~, and room heaters
Please add another row that is labeled Gas Fireplace Heater. Appropriate test method is ANSI Z21.88 – 2012
6. Pg. 120, (e) (1): Gas Wall Furnaces, Gas Floor Furnaces, ~~Gas Hearth Heaters~~, and Gas Room Heaters. The AFUE of gas wall furnaces, gas floor furnaces, ~~gas hearth heaters~~, and gas room heaters manufactured on or after the effective dates shown shall be not less than the applicable values shown in Table E-2.
7. Pg. 120, Table E-2: Standards for Gas Wall Furnaces, Floor Furnaces, ~~Hearth Heaters~~, and Room Heaters. Strike all references to hearth heaters as there is no requirement for fireplace heaters to have a minimum AFUE. Once DOE completes this rulemaking HPBA agrees that "fireplace heater" should be added to this table and the appropriate minimum AFUE should be added to this table.

Appliance	Design Type	Capacity (Btu per hour)	Minimum AFUE (%)	
			Before 4/16/13	After 4/16/13
Hearth Heater	All	< 20,000	----	61
Hearth Heater	All	> 20,000 and ≤ 27,000	----	66
Hearth Heater	All	> 27,000 and ≤ 46,000	----	67



<i>Hearth Heater</i>	<i>All</i>	<i>>46,000</i>	<i>-----</i>	<i>68</i>
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8. Pg. 202 Table X:

<i>Room Heaters, Floor Furnaces, Hearth Heaters, And Wall Furnaces</i>	<i>*Type</i>	<i>Room heater (vented fan); room heater (gravity); floor furnace (fan); floor furnace (gravity); vented hearth heater; wall furnace (direct vent gravity); wall furnace (vented fan); wall furnace (vented gravity)</i>
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HPBA respectfully requests the CEC make these edits to the Proposed Amendments to Appliance Efficiency Regulations. Without these changes these regulations are unenforceable. HPBA is available to staff and Commissioners to answer questions and clarify any issues.

Respectfully,

Kaity Van Amersfort
Affiliate Manager

cc: Rob Oglesby, CEC Executive Director
Dave Ashuckian, CEC Deputy Director of the Efficiency and Renewable Energy Division
Consuelo Martinez, CEC Manager of the Appliances and Existing Building Office
Harinder Singh, CEC staff
Patrick Saxton, CEC Advisor to Commissioner McAllister
Robert E. Raymer, CBIA Technical Director
Michael G. Hodgson, ConSol

Attachment: U.S. Court of Appeals Ruling on February 8, 2013